

600 KAR 3:030. Relocation or reconstruction of utility and rail facilities; recordkeeping and audit requirements.

RELATES TO: KRS 177.035, 177.170, 177.430(5), 179.265, 23 C.F.R. 140, 645, 646, 48 C.F.R. 31

STATUTORY AUTHORITY: KRS 177.430(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.430(5) authorizes the cabinet to promulgate administrative regulations relating to utilities on a turnpike project. This administrative regulation establishes the audit methodology to be used by a cabinet auditor for auditing reimbursable expenses incurred by a railroad or utility under an agreement with the Transportation Cabinet; establishes the requirements for keeping financial records; and requires all utilities and railroads contracting with the cabinet to comply with the federal regulations.

Section 1. Utility's Eligible Costs. (1) The eligible costs a utility incurs in participating in a highway construction project by providing relocation or reconstruction of its facility shall be governed by 23 C.F.R. 645.

(2) A cost not in compliance with 23 C.F.R. 645 shall be disallowed.

Section 2. Railroad's Eligible Costs. (1) The eligible costs a railroad incurs in participating in a highway construction project by providing relocation, construction, or reconstruction of its facility or the elimination of a hazardous highway-rail crossing shall be governed by 23 C.F.R. 646 and 23 C.F.R. 140, Subpart I.

(2) A cost not in compliance with 23 C.F.R. 140, Subpart I or 23 C.F.R. 646 shall be disallowed.

Section 3. Financial Records of a Utility or Railroad. (1) A railroad or utility shall provide the cabinet timely access to all financial and cost information necessary to verify the railroad's or utility's actual costs for the relocation, construction or reconstruction of its facilities directly associated with a cabinet project.

(2) A railroad or utility shall maintain payroll and time records for all employees for three (3) years from the final payment or until an audit has been performed, whichever is first.

(3) A utility or railroad which is required to relocate its facilities for a state-funded highway construction project shall maintain its records in accordance with the provisions of 48 C.F.R. 31.

(4) If a railroad or utility is notified by the Transportation Cabinet of a pending audit, the railroad or utility shall provide the following:

- (a) Time sheets;
- (b) Labor agreements;
- (c) Vendor invoices;
- (d) Equipment usage;
- (e) Indirect cost analysis;
- (f) Direct cost summary;
- (g) Budgetary information;
- (h) Betterment determination;
- (i) Project-related employee expenses;
- (j) Payroll register; and
- (k) Cancelled payroll checks.

Section 4. Audit Standards. The Transportation Cabinet, if auditing a railroad or utility, shall

abide by the accounting and auditing standards contained in the following:

- (1) "Government Auditing Standards", 2003 Revision;
- (2) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)"; and
- (3) "Original Pronouncements, Accounting Standards as of June 1, 2005, Volume I, Volume II, and Volume III".

Section 5. Audit Findings. (1) Prior to the issuance of a final report, the auditor from the Transportation Cabinet shall present the preliminary findings and relevant work papers to the railroad or utility.

(2)(a) A comment about or objection to the preliminary findings shall be submitted to the originating office within the Transportation Cabinet in writing within fifteen (15) calendar days of the railroad's or utility's receipt of the preliminary findings.

(b) A comment or objection shall be taken into consideration by the external audit staff prior to finalizing the report.

(3)(a) If a railroad or utility disagrees with the results of a final report issued by the external audit staff, the railroad or utility may request a review by the External Audit Review Committee within thirty (30) calendar days of the date the final report is received by the utility or railroad.

(b) The request shall be in writing and clearly state the concern with the final report and the reason for the concern.

(c) If the concern and the reason are not clearly stated, the request for review shall not be accepted.

Section 6. External Audit Review Committee. (1) The External Audit Review Committee shall consist of the following:

- (a) The Executive Director of the Office of Budget and Fiscal Management, Chairperson;
- (b) Deputy State Highway Engineer for Project Development; and
- (c) Executive Director of the Office of Legal Services.

(2) A committee member may appoint a proxy to serve on this committee.

(3) The External Audit Review Committee may request the utility, railroad or the auditor to answer questions. The request shall state if a representative is to appear in person, by electronic communication, or in writing.

(4)(a) If the railroad or utility is not satisfied with the decision of the Audit Review Committee, an appeal may be made to the Secretary of the Transportation Cabinet within thirty (30) calendar days of receipt of the committee's decision.

(b) An administrative hearing to hear the appeal shall be held pursuant to the provisions of KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Government Auditing Standards" by the Comptroller General of the United States, 2003 Revision;

(b) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)", by the American Institute of Certified Public Accounts, Inc., copyright 2006; and

(c) "Original Pronouncements, Accounting Standards as of June 1, 2005, Volume I, Volume II, and Volume III" published by the Financial Accounting Standards Board.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Transportation Cabinet Office Building, External Audit Branch,

200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (25 Ky.R. 2235; Am. 2598; 2881; eff. 6-1-99; 33 Ky.R. 537; 1306; eff. 11-9-2006.)